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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,894	02/28/2002	Jason C. Brooke	8266-0783	3459

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EXAMINER

KYLE, MICHAEL J

ART UNIT PAPER NUMBER

3676

DATE MAILED: 10/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,894

Applicant(s)

BROOKE ET AL.

Examiner

Michael J Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-9 and 20-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9 and 20-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. In view of the papers filed July 24, 2003, the inventorship in this nonprovisional application has been changed by the deletion of Jason C. Brooke.
2. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.
3. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 6-9 and 20-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Ross, Jr. (U.S. Patent No. 2,663,048). Ross discloses a caster assembly comprising casters (40, 41) that are coupled to support shafts (33, 34), support bars (30, 32) rigidly attached to the support shafts and pivotally attached to frame members (18), and locking bars (47) that are movable between a first position (figure 2) in which portions (66, 67) of the locking bars (47) engage the support bars, and a second position in which the locking bars are clear of the support bars. The examiner considers feature 47 of Ross to be the locking bar. The locking bar is connected to cams 60 and 61, which have stops 66 and 67 on them. The examiner considers the stops to be

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portions of the locking bar as they are connected to the locking bar. The locking bar itself, is always clear of the support bars. The portions of the locking bar (66, 67) engage the support bars in a first position and are clear of the support bars in a second position. For the purpose of this claim, stops 66 and 67 could also be considered the locking bars as they meet all of the limitations set forth in the claim.

6. With respect to claim 7, Ross discloses each locking bar (47) to affect the engagement of support bars of a pair of casters. Each locking bar affects the engagement of portions 66 and 67 with the support bars.

7. With respect to claims 9 and 20, Ross discloses the locking bars (47) to include pedals (51) to pivot the locking bars between first and second positions. The pedal comprises a U-shaped member at an end of the locking bar. There is a U-shape in the pedal (51) near where it connects to the locking bar (near 50, in figure 5).

8. With respect to claim 21, the locking bars are rotatably coupled to the frame members (23).

9. With respect to claim 22, Ross discloses a caster assembly comprising a caster (40), a support shaft (33) coupled to the caster, a support bar (30, 32) rigidly coupled to the support shaft, and pivotally couple to a frame (at 31), and a locking bar (47) configured to move between a first position in which a portion of the locking bar (66) engages the support bar (30, 32), and a second position in which the locking bar is clear of the support bar.

10. With respect to claim 23, Ross discloses the locking bar (47) is configured to engage a pair of the support bars supported by the casters.

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11. With respect to claims 25-27, Ross discloses the locking bars (47) to include pedals (51) to pivot the locking bars between first and second positions. The pedal comprises a U-shaped member at an end of the locking bar. There is a U-shape in the pedal (51) near where it connects to the locking bar (near 50, in figure 5). The locking bars are rotatably coupled to the frame members.

12. With respect to claim 28, Ross discloses a caster assembly comprising a housing, a wheel (40) rotatably supported by the housing, a support shaft (33) coupled to the housing, a support bar (30, 32) coupled to the support shaft, and a locking bar (66) configured to move between a first position in which the locking bar engages the support bar and a second position in which the locking bar does not engage the support bar.

13. With respect to claims 30 and 31, the locking bar includes a pedal (51) by which the locking bar can be pivoted. The locking bar is also rotatably coupled to the frame member (23).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross. Ross discloses a caster assembly including a support deck (18), base frame (20-23), and intermediate frame (25) coupled to the base frame (at 50 in figure 3) and configured to move vertically relative to the base frame. Ross further discloses a caster (40), a support shaft (33), locking

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member (47), engagement member (all of 60, 61, and 35) and a flange (35) substantially as claimed by applicant. The support shaft is coupled for pivotal movement relative the ground (F) between a lowered position (figure 2) and a raised position (figure 1). The locking member (47) moves between a first position (figures 2 and 5) and a second position (figure 1) and allows the support shaft (33) to pivotally move in a first direction. The engagement member (60, 61) prevents the supports shaft from pivotally moving in a second direction. At least one flange (35) is coupled to the support shaft.

16. Ross discloses the caster assembly for use with furniture but fails to expressly disclose the user of the caster assembly with a bed. However, it is obvious to one having ordinary skill in the art at the time the invention was made to modify Ross's invention for use with a bed because it is well known in the art to use adjustable caster assemblies with hospital beds where it is necessary to mobilize the bed to move a patient and also to immobilize the bed when necessary.

17. Claims 8, 24, and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Ross in view of Kendall (U.S. Patent No. 4,417,738). Ross fails to disclose the support shaft to include a flange that engages the frame member and limits the pivotal movement of the support bars or support shaft in a second direction opposite the first direction.

18. Kendall teaches a retractable caster assembly comprising a caster (34), a support shaft (between 34 and 44), a support bar (48) and a flange (44) connected to the support shaft that engages the frame member (46) in order to restrict the travel of the lever means and engagement point. Restricting the movement also limits the pivotal movement of the support bar and support shaft. Therefore, it would have been obvious to one having ordinary skill in the art at the time

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the invention was made to modify Ross as taught by Kendall in order to restrict the travel of the caster assembly.

Allowable Subject Matter

19. The indicated allowability of claims 6-9 and 20-31 is withdrawn. Rejections of these claims are now based on the Ross reference as recited above

Response to Arguments

20. This Office Action has been based on the claims that were pending as of the amendment filed on February 24, 2003. The amendment filed after final on July 24, 2003 was not entered, so the changes to the claims presented in that amendment have not been considered.

21. Applicant's arguments filed February 24, 2003 have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections. Applicant's arguments fail to specifically point out how the language of the new limitations (specifically the recitations drawn to a "support deck", "base frame", and "intermediate frame") patentable distinguish them from prior art references. The limitations added in amended claim 32 do not prove to overcome the Ross reference.

Conclusion

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22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following reference is cited to further show the state of the art with respect to retractable casters: Zikmund.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

mk



Anthony Knight
Supervisory Patent Examiner
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